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BEFORE THE

ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
COMMONWEALTH EDISON COMPANY)
)
-VS-) No. 11-0772
)
Approval of Multi-Year Performance)
Metrics pursuant to Section)
16-108.5(f) and (f-5) of the)
Public Utilities Act)

Chicago, Illinois

February 17, 2012

Met, pursuant to adjournment, at

10 o'clock a.m.

BEFORE :

MR. GLENNON DOLAN,
Administrative Law Judge

APPEARANCES :

EIMER, STAHL, LLP, by
MR. MARK R. JOHNSON and
MR. JONATHAN M. WIER
224 South Michigan Avenue, Suite 1100
Chicago, Illinois, 60604
appearing for Commonwealth Edison
Company;

1 APPEARANCES:

2 MR. MICHAEL S. PABIAN
3 10 South Dearborn Street, 49th Floor
4 Chicago, Illinois, 60603
5 appearing for Commonwealth Edison
6 Company;

7 MS. KAREN LUSSON
8 100 West Randolph, 11th floor
9 Chicago, Illinois, 60601
10 appearing for the People of the
11 State of Illinois

12 MR. JOHN B. COFFMAN
13 871 Tuxedo Boulevard
14 St. Louis, Missouri, 63119
15 appearing for AARP;

16 MR. JOHN SAGONE and
17 MR. JOHN FEELEY
18 160 North La Salle Street, Suite C-800
19 Chicago, 60601
20 appearing for Illinois Commerce
21 Commission staff witnesses

22 LAW OFFICE OF MICHAEL MUNSON, by
MR. MICHAEL MUNSON and
MR. GRANT JASKULSKI
22 West Washington Street, 1500
Chicago, Illinois, 60602
appearing for Building Owners and
Managers Association of Chicago;

MR. CHRISTIE HICKS and
MS. KRISTIN MUNSCH
309 West Washington, Suite 800
Chicago, Illinois, 60606
appearing for Citizens Utility Board

1 APPEARANCES:

2 MR. RONALD D. JOLLY
3 30 North La Salle Street, Suite 1400
4 Chicago, Illinois, 60602
5 appearing for City of Chicago

6 LUEDERS, ROBERTSON & KONZEN, by
7 MR. RANDALL ROBERTSON
8 1939 Delmar Avenue
9 Granite City, Illinois, 62040
10 appearing on behalf of IIEC.

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I N D E X

WITNESSES DIRECT CROSS REDIRECT RECROSS EXMNR.

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E X H I B I T S

COM ED FOR IDENTIFICATION IN EVIDENCE.

Nos. 1.0	19	21
1.1TB	19	21
2.0	19	21
2.1	19	21
3.0	19	21
4.0	19	21
5.0	19	21
6.0	19	21

AG CX FOR IDENTIFICATION IN EVIDENCE.

Nos. 1	28	59
2	58	59

AARP/AG FOR IDENTIFICATION IN EVIDENCE.

No. 1.0	117	117
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ICC STAFF FOR IDENTIFICATION IN EVIDENCE.

Nos. 1.0	118	119
1.1	118	119
2.0	118	119
2.1	118	119

CUB FOR IDENTIFICATION IN EVIDENCE.

Nos. 1.0	119	120
1.1	119	120
1.2	119	120

1 JUDGE DOLAN: By the direction and authority of
2 the Illinois Commerce Commission, I call Docket No.
3 11-0772, Commonwealth Edison Company approval of
4 multi-year performance metrics pursuant to Section
5 16-108.5f and f-5 of the Public Utilities Act to
6 order.

7 Will the parties identify themselves
8 for the record.

9 MR. JOHNSON: On behalf of Commonwealth Edison
10 Company, Mark R. Johnson and Jonathan M. Wier;
11 Eimer, Stahl, LLP, 224 South Michigan Avenue, Suite
12 1100, Chicago, Illinois, 60604.

13 MR. PABIAN: Also on behalf of Commonwealth
14 Edison, Mike S. Pabian, P-a-b-i-a-n, 10 South
15 Dearborn Street, 49th Floor, Chicago, Illinois,
16 60603.

17 MS. LUSSON: On behalf of the People of the State
18 of Illinois, Karen Lusson, 100 West Randolph, 11th
19 floor, Chicago, Illinois, 60601.

20 MR. COFFMAN: Appearing on behalf of AARP, John
21 B. Coffman, 871 Tuxedo Boulevard, St. Louis,
22 Missouri, 63119.

1 MR. SAGONE: Appearing on behalf of staff
2 witnesses of the Illinois Commerce Commission,
3 John Sagone and John Feeley, 160 North La Salle
4 Street, Suite C-800, Chicago, Illinois, 60601.

5 MR. MUNSON: On behalf of Building Owners and
6 Managers Association of Chicago, Michael Munson and
7 Grant Jaskulski from the Law Office of Michael
8 Munson, 22 West Washington, Suite 1500, Chicago,
9 Illinois, 60602.

10 MS. HICKS: On behalf of the Citizens Utility
11 Board, Christie Hicks and Kristin Munsch, 309 West
12 Washington, Suite 800, Chicago, Illinois, 60606.

13 MR. JOLLY: On behalf of the City of Chicago,
14 Ronald D. Jolly, 30 North La Salle, Suite 1400,
15 Chicago, Illinois, 60602.

16 JUDGE DOLAN: Are there any appearances over the
17 phone?

18 MR. ROBERTSON: Yes. On behalf of IIEC, Randall
19 Robertson; Lueders, Robertson & Konzen, 1939 Delmar
20 Avenue, Granite City, Illinois, 62040.

21 JUDGE DOLAN: All right. Then let the record
22 reflect there are no additional appearances.

1 (No further appearances.)

2 I guess the first preliminary matter is
3 then AARP had a petition to intervene. Is there any
4 objections?

5 (No response.)

6 Hearing none, then AARP's petition to
7 intervene will be granted.

8 You ready to proceed?

9 MR. JOHNSON: We are, your Honor. If it's all
10 right with you, we just moved to have our exhibits
11 admitted into evidence first.

12 JUDGE DOLAN: Well --

13 MR. JOHNSON: And we can go ahead and do that and
14 I guess then tender Mr. -- Dr. Hemphill for direct
15 examination -- cross-examination.

16 JUDGE DOLAN: Okay. All right. Why don't you,
17 if you want to, identify your witness and then I'll
18 swear him in. And you want him to verify his
19 testimony.

20

21

22

1 (Whereupon, Com Ed
2 Exhibit Nos. 1.0, 1.1TB,
3 2.0, 2.1, 3.0, 4.0,
4 5.0 & 6.0 were
5 previously marked for
6 identification.)

7 MR. JOHNSON: Yes. We previously filed
8 affidavits prior to the hearing so as to move
9 admission of the affidavit as well. So Com Ed would
10 move to have admitted into evidence the following
11 exhibits. And would you like paper copies of these?

12 JUDGE DOLAN: No.

13 MR. JOHNSON: Okay. The first is Com Ed's
14 Multi-Year Performance Metrics Plan. It's Com Ed's
15 Exhibit 1.0 (Corrected), and the corrected version
16 was filed on January 23, 2012 on e-docket.

17 The next exhibit is Com Ed
18 Exhibit 1.1TB. It's the Rider DSPM, and that was
19 filed on December 8, 2011 on e-docket.

20 The next exhibit is Com Ed Exhibit 2.0,
21 which is the Direct Testimony of Ross C. Hemphill,
22 and that was filed on December 8, 2011 on e-docket.

1 Also, accompanying Dr. Hemphill's
2 testimony was his CV, and that is Com Ed Exhibit 2.1
3 filed on the same date on e-docket.

4 The next exhibit is Com Ed Exhibit 3.0
5 (Corrected) that's the Direct Testimony of Michael
6 B. McMahan that was filed January 23, 2012 on
7 e-docket.

8 And the next exhibit is Com Ed Exhibit
9 4.0, which is the Rebuttal Testimony of Michael B.
10 McMahan, filed February 7, 2012 on e-docket.

11 The next exhibit is Com Ed 5.0, the
12 Affidavit of Ross C. Hemphill filed this 14th of
13 February 2012.

14 And, finally, as Com Ed Exhibit 6.0, we
15 have the Affidavit of Michael B. McMahan filed
16 February 14, 2012 on e-docket.

17 JUDGE DOLAN: Is there any objections to Com Ed's
18 testimony?

19 MR. COFFMAN: Your Honor, I have a question with
20 regard to the prepared testimony. I'm presuming
21 that it's still the subject of cross-examination --

22 JUDGE DOLAN: Yes. Yes.

1 MR. COFFMAN: -- in case there is some issue
2 during cross-examination.

3 JUDGE DOLAN: That is true.

4 All right. Then with that, Com Ed
5 Exhibit 1.0 (Corrected); Com Ed Exhibit 1.0TB,
6 Com Ed Exhibit 2.0, along with 2.1, 3.0, 4.0, 5.0,
7 and 6.0 will be admitted into the record.

8 (Whereupon, Com Ed
9 Exhibit Nos. 1.0,
10 (Corrected), 1.0TB, 2.0,
11 2.1, 3.0(Corrected),
12 4.0, 5.0 & 6.0 were
13 received in evidence.)

14 All right.

15 MR. JOHNSON: Yes. And with respect to 3.0, just
16 to clarify, you may have said it, but 3.0
17 (Corrected).

18 JUDGE DOLAN: Yes. If I didn't, yes, it should
19 be 3.0 (Corrected).

20 All right. Mr. Johnson, will you
21 introduce your witness.

22 MR. JOHNSON: Yes. With that, Com Ed tenders

1 Dr. Hemphill for cross examination.

2 JUDGE DOLAN: Okay. Dr. Hemphill, will you raise
3 your right hand.

4 (Witness sworn.)

5 Thank you.

6 Who's going first?

7 ROSS HEMPHILL,

8 called as a witness herein, having been first duly
9 sworn, was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY

12 MS. LUSSON:

13 Q. Good morning, Mr. Hemphill.

14 A. Good morning.

15 Q. I would like to first talk about the
16 uncollectibles metric that Com Ed is proposing in
17 this proceeding.

18 Now, as I understand both your
19 testimony and Mr. McMahan's testimony, Com Ed is
20 proposing that it will reduce its uncollectible
21 expense by 30 million rate-able (sic) over the
22 10-year period beginning 14 months after the

1 Commission approves Com Ed's AMI plan; is that
2 right?

3 A. Yes, that's the metric.

4 Q. Now that customer service metric, along with
5 the unaccounted-for energy metric and consumption on
6 an inactive meter metric, are specifically tied to
7 the company's roll-out of AMI technology over a
8 10-year period; is that right?

9 A. Yes.

10 Q. And achievement of that metric is
11 conditioned in your tariff on Com Ed utilizing both
12 the full functionality of AMI technology and no
13 on-site notification; is that correct?

14 A. I want to verify the on-site notification is
15 in the tariff itself first.

16 MR. JOHNSON: Could you repeat the question.

17 MS. LUSSON: Q. The achievement of that metric
18 is conditioned on Com Ed in your tariff on Com Ed
19 utilizing the full functionality of AMI technology
20 and no on-site notification; is that correct?

21 A. If you would just direct me to where those
22 words are used, I would need to verify it. That's

1 all.

2 Q. I guess is that -- does the tariff reflect
3 that assumption, either literally or implicitly,
4 that there would be no on-site notification?

5 A. I don't recall those words in the tariff
6 filings. If you saw those words in the tariff, if
7 you could direct me to those words, that would be
8 helpful.

9 Q. Well, let's see. I'll direct your attention
10 to Page 11 of your direct testimony beginning at
11 Lines 225 through 229.

12 A. Yes. In my testimony it does state that
13 there was no requirement for personal on-site
14 distinguishing notification.

15 Q. So when you reference utilizing full
16 functionality of the technology, that includes
17 utilizing the remote disconnect capability of AMI
18 meters; is that right?

19 A. I would assume so, yes.

20 Q. And is that for all three of those customer
21 service metrics that are referenced, which would be
22 unaccounted-for energy, consumption on inactive

1 metric, and the uncollectibles metric?

2 A. That would be a question that would be
3 better directed to someone who has the technical
4 background as to what drives those particular
5 metrics.

6 Q. Would Mr. McMahan be that person?

7 A. Yes.

8 Q. Now with respect to the uncollectibles
9 metric, do you know if that assumes no on-site
10 disconnect -- no on-site notification for
11 achievements of the metric that you propose in this
12 docket?

13 A. Again, that would be better directed to
14 Mr. McMahan.

15 Q. Now are you familiar with the testimony of
16 Barbara Alexander in this proceeding?

17 A. Yes. I read it once.

18 Q. And would you agree that she recommended
19 that the Commission require Com Ed to identify how
20 and to what degree the retention of the current
21 premise visit requirement associated with
22 disconnection of service for non-payment for

1 residential customers would impact the company's
2 ability to achieve its required performance
3 standards for each of the AMI-related metrics during
4 the 10-year plan?

5 Do you recall that testimony?

6 MR. JOHNSON: Objection. Could we see the actual
7 testimony if you have a copy?

8 MS. LUSSON: Sure.

9 (Document tendered.)

10 JUDGE DOLAN: Which page, Ms. Lusson?

11 MS. LUSSON: Page 12, I believe --

12 JUDGE DOLAN: Okay.

13 MS. LUSSON: -- under recommendations.

14 THE WITNESS: Yes, their testimony states that.

15 MS. LUSSON: Q. And, in particular, she has
16 stated that the company be required to explain the
17 effect of the on-site notification requirement on
18 the company's ability to achieve uncollectible --
19 uncollectibles performance metric, would you agree?

20 A. Yes, her testimony states that.

21 Q. Now, again, you reference in your testimony
22 the -- actually I think Mr. McMahan references the

1 need to -- if the -- excuse me -- uncollectibles
2 metric is to be achieved that the company would have
3 to reduce its uncollectibles by 37 million over
4 10 years; is that right?

5 MR. JOHNSON: Objection. I just want to check if
6 it is -- did you say 37 million --

7 MS. LUSSON: Yes. Approximately 37 million.

8 MR. JOHNSON: -- for uncollectibles?

9 MS. LUSSON: Yes.

10 MR. JOHNSON: I believe that -- I think that
11 mischaracterizes the plan. Isn't it 30 million over
12 10 years, page 20 of the plan? I think the end
13 number you are looking at is the end result is 37.6.

14 MS. LUSSON: Q. Okay. Let me clarify then. The
15 end number to achieve that 30 million reduction is
16 the reduction of the \$37 million over 10 years?

17 MR. JOHNSON: Again, I think it mischaracterizes
18 what we are doing. The final goal is the 37.6
19 million, but we are reducing by 30 million over 10
20 years.

21 MS. LUSSON: Q. Okay. I stand corrected. The
22 company has to reduce its uncollectibles to suit

1 37 million to hit the 30 million reduction; is that
2 correct?

3 A. Yes, to avoid a penalty.

4 Q. And, again, that assumes approximately an
5 annual reduction of uncollectibles of about
6 3 million to hit that goal?

7 A. Yes.

8 Q. I want to show you what I will mark as AG
9 Cross Exhibit 1.

10 (Whereupon, AG Cross
11 Exhibit No. 1 was
12 marked for
13 identification.)

14 AG Cross Exhibit 1 is the company's
15 response to AG Data Request 3.04, which requested
16 that the company provide the change in performance
17 standard that would occur if the Commission's
18 existing regulation in Part 280 concerning a premise
19 visit prior to disconnection for non-payment is
20 retained for each of the performance metrics
21 proposed in this filing; is that correct?

22 A. Yes.

1 Q. And the response indicated there is still
2 currently the company's response to that request?

3 MR. JOHNSON: Correct.

4 MS. LUSSON: Q. Now that response, the last
5 sentence of that response, also refers to the
6 company's response to AG Data Request 3.01. Do you
7 see that?

8 A. Yes.

9 Q. And that request asks for certain
10 information that's listed therein related to number
11 of disconnection notices, field orders issued to
12 physically disconnect the residential customer, and
13 all of the categories listed there.

14 Now if you look at the last sentence of
15 the company's response, it states that "The
16 calculation of the baseline values and annual
17 performance goals required by the 16-108.5(f) of the
18 Public Utilities Act and reflected in Com Ed's
19 Multi-Year Performance Goals Plan do not
20 incorporate the data sought in this request;" is
21 that correct?

22 A. That's correct.

1 Q. Were these responses prepared by you or
2 under your supervision or can you attest to the
3 accuracy of those responses?

4 A. Yes.

5 Q. So, to the extent the baseline --

6 MR. JOHNSON: I'm sorry. Let me just raise one
7 issue on scope. Dr. McMahan can answer, if he can,
8 but it also raise that Mr. McMahan might also be
9 appropriate given that his testimony discusses the
10 calculation of the baseline values. He may be
11 better to speak to the line of questioning along
12 these lines.

13 MS. LUSSON: Okay. I appreciate that, but I'll
14 ask the questions. And if he can't answer them,
15 I'll defer them to Mr. McMahan.

16 MS. LUSSON: Q. So if the calculations of the
17 baseline values and annual performance goals
18 required by the statute referenced there do not
19 include this type of information, can you describe
20 what data the company has for purposes of
21 calculating a baseline?

22 A. You are saying calculating a baseline?

1 Q. Yes, for purposes of the company's future
2 calculations and evaluations of whether or not its
3 performance metric, and specifically I'm talking
4 about uncollectibles metric.

5 A. And just so I can be helpful in answering
6 your question, I kind of lost a line of thought
7 here. Could you just repeat the question. I want
8 to make sure I'm answering correctly.

9 MS. LUSSON: Can you -- I think you have to it
10 read back.

11 (Question read by
12 reporter.)

13 THE WITNESS: Yes. In the future when you're
14 talking about baseline, that's why I'm confused.

15 So are you talking about some type of
16 future calculation or are you talking about the
17 calculation of the baseline?

18 MS. LUSSON: Q. The calculation of the baseline
19 and for purposes of evaluating its performance going
20 forward. Assuming presumably the company has to
21 start with a baseline value for presenting data to
22 the Commission as to how it's doing on its

1 performance metrics, and I'm just trying to
2 understand what kind of information is in this
3 baseline value.

4 A. Oh, that is better directed to Mr. McMahan.

5 Q. Okay. Do you yourself know what data the
6 company is collecting with respect to the
7 uncollectibles performance metric that will allow it
8 to evaluate how the on-site notification requirement
9 affects your ability to achieve the uncollectibles
10 metric?

11 MR. JOHNSON: I would just object that that
12 question assumes that during the first performance
13 hearing in 2013 and 2014 that there will be an
14 on-site notification requirement, so he can answer
15 if he recognizes that that's an assumption during
16 that period.

17 MS. LUSSON: Q. Let's assume that still exist.

18 A. No, I can't answer that question.

19 Q. So you don't know exactly what data the
20 company will be collecting with respect to its
21 evaluation of that metric?

22 A. Well, with regard to what data will be

1 collected, it's better directed to Mr. McMahan
2 because he has the technical expertise. The other
3 is a supposition that was never considered in terms
4 of appearances.

5 Q. Let me direct you to Page 11 of your
6 testimony, beginning at Line 229 through 233, if
7 could you read that over.

8 A. (Witness reviewed document.) Yes, I would
9 agree with it.

10 Q. And when you say that the plan provides
11 that, what you have indicated there, that's a
12 reference to the existing statute 16.108.5(f); is
13 that right?

14 A. Yes.

15 Q. And so you would agree that that compliance
16 with the metric if it's used only to the limited
17 extent achievement of the affected metrics if
18 performance goals was hindered by the less than full
19 implementation? Do you agree?

20 A. Yes.

21 Q. And when you indicate "less than full
22 implementation," that would assume retaining your

1 requirement for on-site notification with respect to
2 achieving the uncollectibles metric?

3 A. I haven't really thought about that from a
4 regulatory standpoint, but we are stating here is
5 that there are certain conditions that need to be
6 met in order for us to be held accountable to the
7 metric if certain things were to change in terms of
8 the functionality, which I believe would be via
9 technical experts as to that happening, then we
10 would have to come to the Commission and make a case
11 for the fact that it actually had the cause and
12 effect to diminish our capabilities and meet the
13 metric.

14 Q. And if the company was required to continue
15 an on-site notification for uncollectible accounts,
16 would that in your view be less than full
17 implementation of the AMI switch?

18 A. You would have to ask a technical expert if
19 that is part of it.

20 Q. So you don't know if that account
21 constitutes less than full implementation?

22 MR. JOHNSON: I also object to the extent it

1 requires him to interpret 16-108.5(f) of the Act
2 that that number in there specifically states
3 on-site notification as one of the functionalities
4 that we are relying upon to fully implement the
5 plan.

6 MS. LUSSON: I'm asking him only from the
7 condition of Mr. Hemphill being the vice president
8 of regulatory in his work in various commission
9 proceedings, both formal and informal, relative to
10 the roll-out or potential roll-out of AMI, so I'm
11 certainly not asking for his legal opinion.

12 JUDGE DOLAN: All right. Then subject to that,
13 you can answer the question, if you can remember.

14 THE WITNESS: If you could repeat the question.

15 (Question was read by
16 the reporter.)

17 I'm not an expert in terms of
18 everything with regard to the functionality of AMI,
19 so I would presume so, but, again, a technical
20 expert would be a better person to ask.

21 MS. LUSSON: Q. To the extent that the statute
22 references an assumption for the uncollectibles

1 metric and the others that on-site -- that the
2 remote disconnect function is enabled and that
3 there's no on-site notification, and it also
4 references that within the context of the company
5 possibly seeking a waiver, would you agree that it
6 would be important for the company to track the
7 impact of on-site notification on the company's
8 ability to achieve the uncollectibles performance
9 metric?

10 MR. JOHNSON: Just to clarify your question, you
11 are saying assuming there's -- that's assuming
12 there's an on-site notification rule in effect
13 during those metric years, right?

14 MS. LUSSON: Correct.

15 THE WITNESS: Tautology, isn't it? Your question
16 is -- if I'm understanding counsel's question and
17 answer correctly, you are saying if this were the
18 case and then it would be important? Is that what
19 you are saying?

20 I mean, there's an ongoing debate as to
21 what rule or interpretation of the rule is currently
22 in place, but your question is if there is an

1 on-site notification now, then it would be important
2 to track that and the effects of that? Is that your
3 question?

4 MS. LUSSON: Q. Well, let's go back a moment.
5 When the company presented data regarding
6 uncollectibles as part of this filing, as I
7 understand it, the metric for uncollectibles was
8 based on uncollectibles -- analyzing the average of
9 the uncollectible amounts from 2008 through 2010; is
10 that correct?

11 A. Yes.

12 Q. So during that time period, is it -- would
13 you agree that on-site notification was in
14 existence, that the company made an on-premise visit
15 before disconnecting?

16 MR. JOHNSON: I'm just going to object to that
17 because that's a legal dispute going on in Part 280
18 right now and calls for him to make a legal
19 interpretation.

20 MS. LUSSON: I'm absolutely not asking for a
21 legal interpretation here. I'm asking if in that
22 the dollar value, which is the average baseline

1 metric, the 67 million, which is the average of the
2 uncollectibles expense from 2008 through 2010, if
3 that -- those uncollectible amounts included or were
4 incurred by the company during the period when
5 on-site notification is or was required. That's a
6 simple factual question. It has nothing to do with
7 the interpretation of Part 280 or any other
8 Commission order.

9 JUDGE DOLAN: All right. Subject to that, you
10 can answer the question.

11 THE WITNESS: I have a real hard time, your
12 Honor, answering that question, because I don't find
13 it as relevant. The numbers that set the baseline
14 are what they are, and I don't see where it has --
15 there is any effect as to what the interpretation is
16 of current rules regarding on-site notification.

17 MS. LUSSON: Well, as I understand Mr. Hemphill's
18 response, he basically said he didn't think it was
19 relevant, but I'm asking him a question and he's
20 required to give an answer, and that is whether or
21 not those -- during the time those three numbers
22 were incurred did the company engage in on-site

1 notification, on-site visitation of customer
2 premises when disconnections were occurring. It's a
3 simple question.

4 THE WITNESS: Oh, you are asking if I have
5 knowledge of what happens when disconnection takes
6 place?

7 MS. LUSSON: Q. During those three years, which
8 I understand is --

9 (Phone interruption.)

10 JUDGE DOLAN: Hold on for one second. Where is
11 that phone coming from?

12 MS. LUSSON: I'm afraid it may be mine. I
13 apologize for that.

14 JUDGE DOLAN: We can go off the record for a
15 second.

16 (Off the record.)

17 Back on.

18 THE WITNESS: I don't have knowledge of what
19 happens during a disconnection or what happens or
20 happened with this disconnect going on during those
21 period of years.

22 MS. LUSSON: Q. Okay. Well, during 2008 there

1 were no AMI meters in Com Ed's service territory; is
2 that correct?

3 A. That's correct.

4 Q. And the roll-out of the pilot AMI meters
5 began I believe in the fall of 2009, is that
6 correct, or is it 2010? Perhaps 2010?

7 A. It was early 2010, if not late 2009.

8 Q. Okay. So for 2008, 2009, and part of 2010,
9 there were no AMI meters in Com Ed's service
10 territory; is that right?

11 A. Yes. The meters were only in the pilot
12 footprint and there was a gradual point -- over a
13 period of time, the point increased to about
14 150,000.

15 Q. And for Com Ed to disconnect the customer
16 related to uncollectibles or for whatever reason, if
17 its an analog meter, that requires a truck to roll
18 in a premise visit; is that right?

19 A. Yes, it does require a truck roll.

20 Q. And you were the witness testifying in
21 Docket 09-0263, which is the AMI pilot docket; is
22 that correct?

1 A. That's correct.

2 Q. And is it fair to say that you are generally
3 familiar with the company's plan as to what occurred
4 during the pilot that was approved in 09-0263?

5 A. Yes.

6 Q. And, if you know, in the pilot footprint, in
7 the territory where Com Ed was installing those
8 meters, did Com Ed engage in remote disconnections
9 of persons who were payment challenged?

10 MR. JOHNSON: I guess I'm going to object to this
11 line of questioning and just question the relevance
12 of it. What's the purpose of this?

13 MS. LUSSON: Your Honor, I'm trying to understand
14 whether or not the baseline number, which is going
15 to be the number that starts as the baseline metric
16 for uncollectibles performance metric, if that
17 assumed an on-site -- if that number -- that level
18 of uncollectibles involved or was incurred during a
19 period of on-site notification.

20 And if assuming that is the case, my
21 question is -- what I'm trying to explore with the
22 witness is whether or not it's important, then if

1 that is the case, whether or not the company has any
2 plans for specifically tracking how on-site
3 notification affects its level of uncollectibles and
4 specifically relevant to this docket how it will be
5 able or not be able to achieve the customer service
6 metric and specifically the uncollectibles
7 performance metric.

8 MR. JOHNSON: I guess your issue is we propose
9 this plan. We haven't asked to be excused from any
10 performance. We haven't said there's any limitation
11 right now. We haven't even started performance
12 periods yet.

13 So I don't understand the relevance of
14 exploring this whole on-site notification issue when
15 we're not asking to be excused right now from any
16 on-site notification which may or may not exist in
17 the future.

18 JUDGE DOLAN: Well, I guess my understanding is
19 she's talking about the baseline number that you,
20 the company, used when they filed their documents,
21 not future. She's talking about current online or
22 on-site notification.

1 MR. JOHNSON: Oh, I heard tracking, too,
2 something about forward looking, like going forward,
3 so I think that's where I was getting confused.

4 JUDGE DOLAN: I think she's talking about what
5 Com Ed used for their determining to come up with
6 the figures that they're currently using.

7 Is that correct, Ms. Lusson?

8 MS. LUSSON: That's right, and which would be the
9 precursor to questions about how the company will
10 monitor going forward whether that on-site
11 notification requirement if, and how, it will affect
12 its ability to achieve performance metric.

13 JUDGE DOLAN: And, again, you are assuming that
14 the Commission will require on-site, but I don't
15 think that plan calls for on-site notification.

16 MS. LUSSON: Well, it's our position that it's
17 currently required now, and we understand that it
18 will be what's going to happen going forward and at
19 a certain point is going to be evaluated in the
20 06-0703 docket, which is Part 280 rulemaking, but
21 right now that's a docket that's been going on since
22 2006 and right now there exists an on-site

1 notification requirement, and we are trying to
2 understand how the company plans on tracking that
3 requirement and its effect on performance metrics
4 going forward.

5 MR. JOHNSON: Right. But so this tracking issue
6 that you are concerned about, even though we haven't
7 gone in and asked for a waiver or anything, this is
8 speculative or hypothetical at this point.

9 MS. LUSSON: No, it's not speculative or
10 hypothetical, because the company's performance
11 metrics that have been filed in this docket
12 specifically states that there is going to be --
13 that it assumes no on-site notification, so that's
14 the basis for these questions.

15 MR. JOHNSON: Right. Okay. So, in other words,
16 we have provided the plan without limitations, and
17 if there are limitations in the future, isn't it up
18 to the company then to make its case for why it
19 should be excused in the future?

20 MS. LUSSON: I mean, but the Commission -- I
21 mean, I don't know if you want to start discussing
22 our briefs here.

1 JUDGE DOLAN: Well, let me just see. I'm trying
2 to understand, because -- so what you are saying is
3 whether the company considered if the Commission
4 would require online notification of tracking
5 forward? Is that what you are trying to ask?

6 MS. LUSSON: I think there's a couple of issues.
7 I want -- first of all, I want to understand what
8 the company is assuming about what the current law
9 requires; secondly, what, if anything, it's doing --
10 given what we have now and that there is no new
11 rulemaking decision in the pending rulemaking
12 docket, how, if at all, the company will be tracking
13 the existence of an on-site notification requirement
14 with respect to its uncollectibles performance
15 metric given that that metric assumes no on-site
16 notification.

17 JUDGE DOLAN: Okay.

18 MR. JOHNSON: We just feel at the time that the
19 performance period would start the AMI specific
20 performance period in 2013, I would think you have
21 to make a determination at that time of what rule,
22 if any, exist and then determine what kind of

1 tracking you're talking about would look like.

2 It seems to me that the concern about
3 tracking would be a Com Ed issue to figure out
4 whether the operator can go in to seek a waiver in
5 the future in the event such a rule existed.

6 MS. LUSSON: We are concerned now how the
7 Commission is going to be able to evaluate that
8 going forward if the company is standing here today
9 saying we may very well be seeking a waiver based on
10 no on-site notification -- based on an on-site
11 notification requirement.

12 MR. JOHNSON: Right. I think our view is the
13 statute, specifically the General Assembly, provided
14 a forum for that and said if Com Ed ever does seek a
15 waiver, the Commission's got notice and a hearing
16 and everyone can participate and figure that out,
17 and it will be our burden to show, through
18 discovery, that we can be excused.

19 MS. LUSSON: But if -- I don't know. Is there an
20 objection pending? I have lost track.

21 JUDGE DOLAN: He did object to the question. You
22 were going back and forward.

1 MS. LUSSON: Let me just state one more point,
2 and that is that the company's tariff that it's
3 asking the Commission to approve specifically
4 provides that the company be exempt from the
5 requirement to meet a target level of achievement in
6 accordance with the provisions of 16-108.5 of the
7 Act that such penalty is equal to zero.

8 So the tariff -- at least the language
9 on Page XX plus 11 -- automatically assumes as
10 written that a penalty will be zero if they aren't
11 permitted to engage the full functionality of the
12 AMI meters.

13 MR. JOHNSON: I mean, I object to that
14 interpretation. That's a mischaracterization of
15 what that tariff says, and the statute provides for
16 us having filed a report with the Commission
17 determining penalties.

18 JUDGE DOLAN: You are actually talking about the
19 time, right, talking about 10 or 11?

20 MS. LUSSON: That's Page 11 of mine, Illinois
21 Commerce Commission No. 10 original sheet number XX
22 plus 11.

1 JUDGE DOLAN: Oh, plus 11.

2 MR. JOHNSON: I'm sorry. What's the
3 interpretation of this? We are on the original
4 sheet number 10?

5 MS. LUSSON: Well, the determination of the
6 penalty, the language provided there is not
7 consistent with the language of the statute, you
8 know, and I was eventually going to get to a
9 question of Mr. Hemphill if he would have any
10 objections to including the specific language of the
11 statute which talks about the level of proof the
12 company has to provide if it seeks a waiver in this
13 tariff. I kind of feel like we are jumping ahead
14 here.

15 MR. JOHNSON: With respect to the tariff, I see a
16 reference of the things that are suppose to be done
17 in accordance with the Act. I don't mean to start
18 arguing about the tariff right here, but there
19 wasn't any -- you know, we put the reference to the
20 statute in there. We weren't intending to override
21 the statute in any way.

22 JUDGE DOLAN: Okay. I guess now I'm confused

1 now. You are asking him to interpret if that's the
2 meaning that they intended in the tariff filing?

3 MS. LUSSON: No. I guess I was trying to respond
4 to Mr. Johnson's objection. I think we are back at
5 the original question I think that was pending, and
6 the question that you objected to was related to
7 whether or not in the years 2008 through 2010 the
8 company was -- that the uncollectible amounts
9 incurred during that period occurred when on-site
10 notification was the practice of the company.

11 JUDGE DOLAN: If required.

12 MS. LUSSON: We believe still required.

13 MR. JOHNSON: Okay. And that's yes. I mean, I
14 don't have an objection to him answering that
15 particular question.

16 JUDGE DOLAN: We are ready to go, Mr. Hemphill or
17 Dr. Hemphill.

18 THE WITNESS: I do not believe that was a
19 consideration.

20 MS. LUSSON: Q. No. My question is during the
21 years of 2008 through 2010, which again is the years
22 that create the 67 million, that the company is

1 trying to work down from the purposes of the metric,
2 isn't it correct that Com Ed during that time period
3 engaged in on-site notification?

4 A. I can't speak to what the current practices
5 in terms of disconnection. I haven't -- I've never
6 observed disconnection.

7 Q. Well, let me ask you this. You are familiar
8 with the ability -- is it correct that non-AMI
9 meters, the meters that are not digital, require an
10 employee to come and physically disconnect at the
11 premise?

12 A. Yes.

13 Q. So, to the extent that AMI was not in any
14 part of the Com Ed service territory during 2008 and
15 2009, certainly we can assume then that on-site
16 premise visits occurred, trucks rolled when people
17 were disconnected for non-payment?

18 A. We can presume that.

19 Q. Okay. Now in 2010, which is the year that
20 the pilot began in the Maywood Operating Center, as
21 I recall, in that 09-0263 docket, the company was
22 given permission to install approximately 141,000

1 AMI meters in that part of its service territory; is
2 that right?

3 A. I believe it was 130.

4 Q. 131? And, if you know, as one of the
5 persons deeply involved in that AMI pilot project
6 and as a participant in the workshop with
7 stakeholders, do you know if at any time during the
8 pilot and today in that pilot footprint area the
9 remote disconnect switch is utilized?

10 A. Yes.

11 Q. And is it utilized -- does the company
12 engage in on-site notification in that pilot service
13 territory for disconnections for nonpayment, if you
14 know?

15 MR. JOHNSON: Just to clarify, what is meant by
16 the phrase "on-site notification" exactly?

17 MS. LUSSON: Contact with the customer at the
18 time of disconnection.

19 THE WITNESS: I do not know.

20 MS. LUSSON: Q. And as the officer -- as the
21 person that perhaps oversaw the pilot or was
22 certainly heavily involved in planning the pilot,

1 was that remote disconnection capability implemented
2 throughout the 131,000 meter territory or just in
3 certain parts, do you know?

4 A. Are you asking was it universally within the
5 footprint?

6 Q. Yes.

7 A. The remote disconnect capability utilized
8 throughout the footprint? Is that the question?

9 Q. Yes.

10 A. Yes.

11 Q. To the extent you are testifying about these
12 performance metrics -- and let me ask you this. How
13 will the company present its performance data to the
14 Commission in its annual filings? Does it envision
15 a docket being initiated by the Commission or just a
16 filing?

17 A. It would be a docket.

18 Q. And, again, let's assume -- well, first, let
19 me ask, do you know, does Com Ed believe there is an
20 on-site notification requirement currently?

21 MR. JOHNSON: I mean, I object again to the
22 extent he's essentially calling him a fact witness

1 interpreting Part 280 of the rules and regs of the
2 Commission.

3 JUDGE DOLAN: She asked if he knew.

4 MS. LUSSON: Q. And, in practice, I'm talking
5 about company practice about disconnection of
6 customers for nonpayment.

7 A. You want me to answer just in terms of
8 practice?

9 Q. Yes.

10 A. Again, I have never observed a
11 disconnection; therefore, I do not know.

12 Q. I didn't ask you if you observed it. Do you
13 know if the company's practice is to have a truck
14 roll and visit a premise when a customer's
15 disconnected for non-payment?

16 A. Yes. We have been through this. Yes,
17 there's a truck roll. Because they're for all but
18 the 130,000 meters, there's a technical requirement
19 to have a truck roll in order for there to be
20 disconnection; therefore, I would presume that.

21 Q. But in terms of again those 131,000 meters,
22 you don't know if there's any sort of contact with

1 the customer on-site at the time of disconnection
2 whether it be remote or not?

3 A. No.

4 Q. To the extent that -- again, let's assume
5 for purposes of my question that there is an
6 existing on-site notification requirement in areas
7 where AMI meters are installed.

8 Would you agree that it would be
9 important for the company to collect data related to
10 the effect of on-site notification to its ability
11 to -- and how that on-site notification affects the
12 company's level of uncollectibles?

13 A. Again, I think you would call it a
14 tautology. You are saying if it's important, would
15 you say that it's important? If it were required,
16 would you say that it would be important to follow
17 that? That kind of -- I mean, if I said that that
18 wall was blue, would you agree with me that that
19 wall was blue?

20 Q. I'm asking you if it's important to evaluate
21 the financial impact, the dollar impact on achieving
22 a metric, would you agree that it's important --

1 that it's important to evaluate the cost both with
2 an on-site notification and without an on-site
3 notification and how it affects uncollectible
4 expense incurred by Com Ed?

5 A. I can't say that sitting here today.

6 Q. Mr. Hemphill, do you have an opinion as to
7 whether or not on-site notification affects the
8 company's ability to achieve its metric?

9 MR. JOHNSON: I'm sorry. Which metric?

10 MS. LUSSON: The uncollectibles metric.

11 THE WITNESS: I would have to say that it would
12 probably have an impact. I can't say how
13 significant it would be.

14 MS. LUSSON: Q. To the extent you think it
15 probably will have an impact on the company's
16 ability to achieve its uncollectibles performance
17 metric, do you think it's important for the
18 Commission to understand how the company will go
19 about evaluating that effect on its uncollectibles
20 performance metric achievement?

21 MR. JOHNSON: Again, I object to the extent it
22 calls for the witness to speculate as to what rule,

1 if any, would apply several years from now.

2 JUDGE DOLAN: I'm going to sustain that
3 objection.

4 MS. LUSSON: Q. Mr. Hemphill, do you know what
5 data Com Ed will collect in order to determine
6 whether or not an on-site notification requirement
7 affects its ability to achieve the uncollectibles
8 metric?

9 A. No.

10 Q. Mr. Hemphill, I assume the company is in the
11 process and that you are heavily involved in
12 preparing the company's AMI deployment plan that
13 will be filed in April?

14 A. Yes.

15 Q. And will the company in that filing be
16 seeking a waiver of the existing on-site
17 notification rule?

18 MR. JOHNSON: I object as to relevance in this
19 docket.

20 JUDGE DOLAN: Sustained.

21 MS. LUSSON: Do I get a chance to respond?

22 JUDGE DOLAN: Go ahead.

1 MS. LUSSON: The relevance is relative to the
2 performance metric related to uncollectibles in this
3 docket and what the company's assumptions are
4 relative to its ability to achieve the metric and
5 whether on-site notification prevents it from
6 achieving that metric. So my question is --

7 JUDGE DOLAN: In a future docket that hasn't been
8 filed, that's my concern, so we don't know what the
9 company's plans on filing in April.

10 MS. LUSSON: Q. Mr. Hemphill, your performance
11 metric that you discuss at pages -- uncollectibles
12 performance metric that you discuss in your
13 testimony assumes no on-site requirement; is that
14 correct?

15 A. Where again just so I can verify my
16 testimony?

17 Q. Pages 11 and 12 I think you state to the
18 statute.

19 A. Yes, that's stated on Page 11.

20 MS. LUSSON: Q. So I'm going to show you what
21 I'm marking as AG Cross Exhibit 2.

22

1 (Whereupon, AG Cross
2 Exhibit No. 2 was
3 marked for
4 identification.)

5 AG Cross Exhibit 2 is the company's
6 response to AG Data Request 1.08. This data
7 request, do you know, was this prepared by you or
8 under your supervision?

9 A. I'm familiar with this, yes.

10 Q. If I ask the same questions today, would
11 your response be the same?

12 A. Yes.

13 Q. The last sentence of Part E indicates that
14 because the AMI plan has neither been filed nor
15 approved it's not possible to know the contents of
16 the final Commission approved AMI plan.

17 So at this point the company does not
18 know whether or not it will seek a waiver of the
19 existing on-site notification requirement?

20 A. That's correct.

21 MR. JOHNSON: And, again, I object as to
22 relevance of the question and reiterate the

1 objections that appear at the beginning of the
2 response to Subpart E.

3 JUDGE DOLAN: Overruled.

4 MS. LUSSON: Thank you, Mr. Hemphill.

5 I have no further questions and would
6 move for the admission of AG Cross Exhibits 1 and 2.

7 JUDGE DOLAN: Any objections?

8 MR. JOHNSON: No objections, just assuming that
9 all the objections that we have in these responses
10 are preserved.

11 JUDGE DOLAN: Understood. With that, AG Cross
12 Exhibit 1 and 2 will be admitted into the record.

13 (Whereupon, AG Cross
14 Exhibit Nos. 1 & 2 were
15 received in evidence.)

16 Mr. Coffman.

17 MR. COFFMAN: Yes, thank you.

18 JUDGE DOLAN: Dr. Hemphill, you are okay with not
19 taking a break or do you need a break?

20 THE WITNESS: I'm fine. Thank you.

21 JUDGE DOLAN: Okay.

22

1 CROSS EXAMINATION

2 BY

3 MR. COFFMAN:

4 Q. I don't think I have as many as Ms. Lusson,
5 but I do want to -- first of all, good morning,
6 Mr. Hemphill.

7 A. Good morning.

8 Q. John Coffman representing AARP, and I want
9 to go back just to the basics of what is being
10 proposed by Commonwealth Edison in this case and
11 what the Commission is being asked to approve.

12 We have I guess exhibits to your
13 testimony which are both included in the metrics
14 plan and proposed tariff, correct?

15 A. Yes.

16 MR. JOHNSON: Actually I believe the plan is not
17 an exhibit to his testimony. The only exhibit
18 attached to his testimony is the tariff.

19 MR. COFFMAN: Q. And, just to be clear,
20 Commonwealth Edison is asking that the Commission in
21 this case adopt the metric plan as Commonwealth
22 Edison has drafted and proposed and also to approve

1 the tariff, which is Rider DSPM, and that is
2 specifically Exhibit 1.1TB; is that accurate?

3 A. Yes.

4 Q. So what's in these documents is what is at
5 issue in this case, correct?

6 A. Yes.

7 Q. And did you review the tariff, which is
8 Exhibit 1.1TB, and supervised its development?

9 A. Yes.

10 Q. And I want to take you specifically to the
11 page that Ms. Lusson was talking about earlier,
12 which is I guess listed as original sheet XX plus
13 11, and I'm not sure if the pages are numbered.
14 That's Page 11 or 12.

15 A. Actually the numbering is the XX plus, so
16 XX plus 11, XX plus 12.

17 Q. And I would like to refer you to the first
18 paragraph in this proposed tariff on that page under
19 the heading of "Determination of Penalty Continued."

20 Does it not there suggest the company
21 was found exempt from the requirement to meet some
22 level of achievement under provisions of Section

1 16-108.5 that then the penalty to Com Edison would
2 be equal to zero?

3 A. Yes, that's what it says.

4 Q. And is it not true that the new law as
5 modified by the trailer (sic) bill actually grants
6 the Illinois Commerce Commission the ability if a
7 waiver is filed to grant only to the extent to which
8 there was some hindrance related to full
9 functionality or the on-premise visit?

10 MR. JOHNSON: I'm sorry. I object to the extent
11 it calls for a fact witness to interpret the statute
12 or provide a legal interpretation of the statute.

13 JUDGE DOLAN: Go ahead, Mr. Coffman.

14 MR. COFFMAN: Your Honor, this language does not
15 track the statute and I'm trying to understand where
16 this language came from that would presumably grant
17 complete waiver or complete exemption.

18 MR. JOHNSON: Just to be clear, it does cite that
19 it has to be in accordance with the provisions of
20 the statute that you are citing.

21 MR. COFFMAN: And the section, which is mentioned
22 elsewhere in people's testimony and in the metric

1 plan, has other wording in the tariff. I'm trying
2 to get at why the language is different than the
3 statute here. I'm not asking for a legal
4 interpretation. I'm trying to understand why
5 Commonwealth Edison --

6 JUDGE DOLAN: Based on that, I'm going to
7 overrule the objection, if you can answer, Doctor.

8 THE WITNESS: Okay. Can I hear the question.

9 MR. COFFMAN: Q. The question is why is
10 Commonwealth Edison suggesting that the tariff be
11 granting a complete exemption rather than only an
12 exemption only to the extent the Commission might
13 find it was a hindrance?

14 A. Complete exemption rather than only -- and
15 I'm not very -- I'm not comfortable interpreting the
16 statute. So given the fact that this was written to
17 be in accordance with the stated act, we assume that
18 it wasn't in complete alignment with the -- or
19 complete alignment with the statute.

20 Q. So is it Commonwealth Edison's intent with
21 this language that a penalty not be automatically
22 zero but that a penalty would be, as approved by the

1 Commission under the new statute, only to the
2 limited extent that achievement affects metric
3 performance goals was hindered less than full
4 implementation rather than an absolute elimination
5 of any penalty altogether?

6 A. I would presume that the Commission would
7 make a finding that is consistent with what the
8 statute is. We wrote these words because we had
9 assumed that it was in alignment with the statute.
10 I can't make a legal argument as to whether it is or
11 it isn't. These words are as they are in the
12 tariff.

13 Q. Would you have any objection -- would
14 Commonwealth Edison have any objection to replacing
15 this language with the exact language in the
16 statute?

17 MR. JOHNSON: I object to the fact witness making
18 these commitments at this point. We are certainly
19 open to talking about this. If he has to interpret
20 a statute right now and making a binding commitment
21 based on legal interpretation of the statute --

22 JUDGE DOLAN: I guess maybe I can shortcut this.

1 I think the Commission will make the ultimate
2 determination of what should be in the performance
3 filing in the tariffs. So if the Commission finds
4 this is in compliance with the statute, the
5 Commission will order the tariffs to be reconfigured
6 in accordance with the statute.

7 MR. COFFMAN: Q. I guess I'll move on then. To
8 be clear, does Commonwealth Edison acknowledge that
9 in the future waiver proceedings relating to the
10 metric that may or may not be filed, the Illinois
11 Commerce Commission would have absolute discretion
12 as to what degree Commonwealth Edison was excused
13 from --

14 A. Yes, we have that ability.

15 Q. Do you believe that in such a waiver
16 proceeding the Commission would -- would you expect
17 that the Illinois Commerce Commission would be
18 making a finding in such a future waiver proceeding
19 as referenced in your plan in a manner that was
20 consistent with current laws and regulations
21 regarding premise visits?

22 MR. JOHNSON: I'm going to object that it's

1 causing him to speculate on what the Commission
2 might or might not do and what standards they may
3 apply within the purview of the Commission.

4 MR. COFFMAN: My question is simply whether the
5 Commission would be making a decision based on
6 whatever the law and state of regulation was at that
7 time?

8 MR. JOHNSON: Again, I object. It's going to be
9 up to the Commission to decide what laws apply at
10 the time of whatever waiver proceeding this is and
11 which laws apply during which performance period
12 that they're considering at the time.

13 MR. COFFMAN: Q. Is Commonwealth Edison
14 proposing anything in its proposed plan or in its
15 tariff that would grant any greater ability to seek
16 a waiver than the statute currently provides?

17 A. No.

18 Q. That's what I was hoping you would say.

19 And with regard to the question of the
20 baseline that's being used to initiate the
21 uncollectibles metric, I think we have established
22 that most of that data was based on a time period

1 when Commonwealth Edison was engaging in premise
2 visits at the time of disconnection because that was
3 a technological necessity during that time period,
4 correct?

5 A. That was established during the
6 cross-examination by Ms. Lusson.

7 Q. And did I hear you correctly that you have
8 no knowledge of what your employees do currently
9 when they go out on non-premise visits?

10 A. Yes. That was also established under
11 cross-examination.

12 Q. Do you know even whether there are premise
13 visits currently being made by Commonwealth Edison
14 in places where AMI devices are in place?

15 MR. JOHNSON: I'm just going to object as to
16 relevance of what Com Ed's doing now. It has
17 nothing to do with the baseline period and it has
18 nothing to do with the performance periods that are
19 going to happen in the future, so I don't understand
20 what Com Ed's doing in 2012 -- what relevance it has
21 to this case.

22 MR. COFFMAN: Well, I think it's relevant to the

1 assumptions that go into what the starting point is.

2 MR. JOHNSON: I'm sorry. Well, the starting
3 point is the baseline, and that's '08 to 2010.

4 MR. COFFMAN: Q. Does Commonwealth Edison
5 dispute whether there is even a current requirement
6 for any type of premise visit currently?

7 MR. JOHNSON: Our position under dispute is set
8 forth in the Part 280 rulemaking proceeding, and
9 there's briefing on that, so I don't think we need
10 to bring that into this case.

11 MR. COFFMAN: Your Honor, I disagree. The Part
12 280 rulemaking case which -- has been going on for
13 six years now and I guess submitted on the record in
14 regard to changes that may or may not occur with
15 certain provisions in the future, my question is to
16 what is now the current state of the law and
17 regulations.

18 MR. JOHNSON: Again, I don't understand the
19 relevance of the current state. Dr. Hemphill didn't
20 testify to this at all.

21 MR. COFFMAN: I presume the Commission is going
22 to be issuing a decision in that case before it

1 reaches a decision in Part 280.

2 So what the state of the law and
3 regulations at the time the Commission issues its
4 order in this case, I think is relevant.

5 MR. JOHNSON: I don't understand why it would be
6 relevant when we are not seeking to be excused from
7 any performance in this docket. We propose to offer
8 a robust plan to make public and we are not asking
9 to be excused from any performance at this point.

10 MR. COFFMAN: Well, your Honor, I think we have
11 established that the current metric, at least for
12 more than two-thirds of the data, presumes an
13 on-site visit notification, but we don't know, and,
14 obviously, we can't presume what the rule might be
15 in the future, but it seems very likely that the
16 measuring period will begin before there is some new
17 rule, and if there's an ongoing dispute between
18 Commonwealth Edison and other intervenors about
19 exactly the state of the current, we don't think
20 that the Commission should adopt the proposed order
21 without being clear what state of regulations we are
22 starting with.

1 MR. JOHNSON: Okay. Again, same objection. I
2 mean, what's relevant right now in 2012 has nothing
3 to do with what the state of the law is going to be
4 under the Part 280 rule.

5 I mean, we have a different opinion as
6 to whether that's going to be in existence at that
7 point. You don't think it is. I think it will be.
8 But what happened in late summer of 2013 into August
9 of 2014 for that first performance year is pure
10 speculation of what rule is going to apply at that
11 point.

12 MR. COFFMAN: Your Honor, that's exactly my
13 point. The basic presumption is to assume the state
14 of affairs is not currently in effect.

15 MR. JOHNSON: We assume what the statute stated
16 which is we are suppose to assume full
17 functionality, full implementation, no on-site
18 notification. That's the plan we provide.

19 MR. COFFMAN: Your Honor, Commonwealth Edison has
20 an absolute right to request a waiver. That's in
21 the new law. No one can take that away from them.
22 That's in the current statute. We are not

1 disagreeing with that reality, but what we are
2 objecting to is going beyond that in this particular
3 case presuming that there's some change in
4 regulation that hasn't currently been made.

5 My point is that it is speculative. It
6 doesn't mean that there isn't, that somehow the
7 on-site premise requirement is eliminated, because
8 it has been eliminated.

9 MR. JOHNSON: That's a mischaracterization of the
10 plan and testimony. We do not speak to what the
11 current state of the law is. We proposed a plan
12 that assumes that these -- based upon certain
13 assumptions, we assume full functionality, and full
14 implementation, and no on-site.

15 If we find that we are limited because
16 of some force majeure event or there's on-site
17 notification, whatever that rule looks like, then
18 we'll have to address that at that time in the
19 future, and that's up to Com Ed whether they decide
20 to pursue a waiver.

21 MR. COFFMAN: This goes back to my question. I'm
22 sorry.

1 JUDGE DOLAN: Well, if I understand, you are just
2 asking if Com Ed planned for that, if they have to
3 do on-site or no on-site.

4 MR. COFFMAN: My question is what is their
5 current understanding of the regulation. We are not
6 concerned about what may come out of the Part 280
7 case. We think it's presumptuous to assume how that
8 case will be decided. We think the Commission has
9 to in this case assume the current state of law,
10 which requires an on-premise visit and notification.

11 We think that the proposal here is
12 presuming a state of law and regulations that's not
13 in --

14 JUDGE DOLAN: I mean, I think I lost your
15 original question that was in effect.

16 MR. COFFMAN: Well, I'm not sure I got an answer
17 to the question about whether there is a current --
18 Commonwealth Edison believes that the current state
19 of the regulation require a premise visit of any
20 kind.

21 JUDGE DOLAN: Okay. Well, do you know the answer
22 to that? You can answer.

1 mutually exclusive one way or the other.

2 So the point of the question was after
3 those hypotheticals, what were you asking?

4 MR. COFFMAN: My question is what it is. I'm not
5 sure what your objection is.

6 JUDGE DOLAN: Well, let me understand. So you
7 are saying if the law changes and they're not
8 required to provide notification, then the company
9 won't provide notification any more is the company's
10 position?

11 MR. COFFMAN: The question is whether or not they
12 would be required to still engage in some on-premise
13 notification.

14 JUDGE DOLAN: So if the rules change that they
15 are not required, then under the AMI pilot or under
16 the AMI program you are saying only be required --

17 MR. COFFMAN: My question does not presume any
18 change in the law.

19 JUDGE DOLAN: I think the way you -- the way I
20 heard it you said if the law was changed on-site
21 notification must be required.

22 MR. COFFMAN: I think at the risk I mess it up

1 again, I would just please ask the court reporter to
2 read it back again.

3 (Question read by
4 reporter.)

5 MR. JOHNSON: Again, I guess I don't understand
6 the question. I think it's difficult for the
7 witness to answer you. You're asking if no
8 requirement exist will Com Ed abide by the --

9 MR. COFFMAN: Q. Let me ask it this way. We
10 established that there is a technical requirement to
11 roll the trucks and having an impact on-premise
12 visit leading to disconnection.

13 My question is is there a regulatory
14 requirement beyond the technical requirement
15 currently?

16 A. Not that I'm aware of.

17 Q. So Commonwealth Edison does not believe that
18 the Part 280 --

19 MR. JOHNSON: Again, I am going to object. I
20 don't understand how this impacts the plan and
21 tariffs that are at issue in this proceeding and
22 whether these, you know, incremental requirements

1 that you are describing how that impacts.

2 We have provided a full plan that
3 assumes full functionality, full implementation. We
4 are not seeking any waiver right now or limiting it
5 in any way.

6 MR. COFFMAN: I'm not sure I understand the
7 objection.

8 MR. JOHNSON: It's a relevance objection. What
9 we are doing now and the nuances --

10 MR. JOLLY: He was just starting to ask another
11 question.

12 MR. COFFMAN: If you don't know the point at
13 which we are starting and -- you know, and we don't
14 know where we are going, and apparently there's
15 quite a bit of disagreement about the current state
16 of the rule.

17 MR. JOHNSON: But those rules don't matter
18 because the plan is not based on whether -- it
19 doesn't have an assumption on what the current rules
20 are. It just assumes a full plan. It assumes full
21 implementation. We are not speaking to in this 2012
22 plan what the law will be during our first year. We

1 all have to learn what that law is during that year
2 and then figure out if we need a waiver or not.

3 MR. COFFMAN: It is AARP's position that the
4 proposal assumes the state of regulation is not in
5 existence. Recently in the 09-0263 case, that
6 on-premise visit is required under the rules, but
7 apparently Commonwealth Edison doesn't agree with
8 that.

9 MR. JOHNSON: We are not speaking to this one way
10 or another. Our plan does not talk about or
11 interpret what the current law is.

12 MR. COFFMAN: Your Honor, their proposal assumes
13 that there is no on-premise notification, and that
14 is not our understanding of what the Commission's
15 recent rulings have said.

16 MR. PABIAN: Your Honor, may I interject
17 hopefully for clarification. The assumption is in
18 the nature of a mathematical assumption, and by that
19 I mean the numbers -- well, the assumption stated,
20 the numbers assume let's say no on-site visit, no
21 door knock.

22 All that means is if Com Ed --

1 regardless of what the law is, if Com Ed wants a
2 waiver from those numbers, because it finds that the
3 current law inhibits it or the revised law under
4 Part 280 inhibits its attainment of those metrics,
5 it has to come in and prove how that requirement,
6 whether it's a current requirement or whether it's a
7 future requirement, hinders its attainment of the
8 metrics. That assumption is like a mathematical
9 assumption. It's not meant to be -- it's not meant
10 to -- it's meant to reflect the capability of the
11 technology and the full functionality of the
12 technology.

13 If either the current rule or the
14 future rule inhibits the implementation of that
15 technology, it's up to Com Ed to come in and prove
16 how -- whether it's the current rule or a future
17 rule inhibits, if it wants to get a waiver of the
18 metric -- how that affects its waiver metric.
19 That's what the assumption is there. It's a
20 technical assumption about the functionality and the
21 ability to use the functionality. I mean --

22 MR. COFFMAN: Your Honor, I'm not sure whether I

1 can consider that to be testimony.

2 JUDGE DOLAN: No.

3 MR. COFFMAN: So I would appreciate --

4 JUDGE DOLAN: It's argument back and forth,
5 because you both are trying to make a determination.
6 So, basically, you are trying to make a
7 determination whether the company's position
8 currently is whether they have to have an on-site
9 notification before they disconnect.

10 MR. COFFMAN: Your Honor, we think it's relevant,
11 because we are establishing a starting point here.
12 We are adopting a plan and a tariff that have
13 assumptions that, in our opinion and the opinions of
14 other intervenors, does not comport with the current
15 state of the law and regulation.

16 We think that that needs to be
17 clarified in this docket, so we know where we are
18 starting from, that we are not using assumptions
19 that are based on something that hasn't occurred yet
20 or based upon some confusion or disagreement among
21 the parties -- a respectful agreement about how to
22 interpret the current ruling.

1 We'd like to know what that rule is
2 simply so when they offer a tariff that states that
3 they should seek a waiver from the on-premise
4 notification, we think it needs to be clear what the
5 Commission believes is the current requirement so we
6 all know what we are being asked to adopt here.

7 MR. COFFMAN: It's the company that has
8 interjected this issue in testimony, in direct
9 testimony, and in its proposed tariff. That's the
10 way we view it.

11 JUDGE DOLAN: But I think --

12 MR. COFFMAN: And I would like the opportunity to
13 ask a few more questions of Mr. Hemphill about what
14 is the current practice and expectation as far as
15 on-premise notification going forward under the
16 current state of the law and regulation.

17 JUDGE DOLAN: So you are asking what the
18 company's procedure is currently as far as --

19 MR. COFFMAN: Your Honor, there's more than
20 mathematics in these tariffs. There are words, and
21 we want to make sure we understand what all these
22 assumptions are.

1 JUDGE DOLAN: From the company's perspective, all
2 you are talking about, because, obviously, what the
3 Commission rules is what the Commission determines
4 is going to be in the final order.

5 MR. COFFMAN: I think specifically what we are
6 talking about is what's in their proposed plan and
7 their tariff.

8 MR. JOHNSON: And, I mean, just to be clear, we
9 don't think it's relevant because we are talking
10 about -- you are asking about practices right now
11 that don't relate to the baseline period in the
12 plan.

13 We did not look at the on-site
14 notification for this plan and evaluate the
15 assumptions based upon the degree to which they're
16 on-site or not on-site or anything. We are not
17 pre-litigating any of those waiver decision-type
18 issues right now.

19 MR. COFFMAN: Your Honor, might I continue my
20 cross-examination.

21 JUDGE DOLAN: Yes.

22 MR. COFFMAN: Q. Mr. Hemphill, do you see any

1 inconsistency between an assumption that there will
2 not be a requirement for a premise visit and a
3 starting baseline that include numbers where premise
4 visits did occur?

5 A. And the assumption is relevant to where --
6 where is the assumption built into what you are
7 referring to?

8 Q. The assumption that is written into the
9 proposed tariff that there will not be on-site
10 requirement notification.

11 A. But the tariff is just an application of the
12 metrics which are numbers that were established in
13 the statute. What does this -- I asked you a
14 question. I'm unclear as to where the assumption
15 applies to in the tariff.

16 Q. That's my question to you. I think we
17 established earlier that your understanding of the
18 proposed tariff is that it doesn't grant the
19 Commission any greater authority to issue a waiver
20 than the statute does; is that correct?

21 A. Correct.

22 Q. Okay. Is it your assumption that if the

1 on-premise notification requirement continues as it
2 it is now that Commonwealth Edison would likely seek
3 a waiver?

4 MR. JOHNSON: I'm going to object to the extent
5 it calls him to speculate.

6 MR. COFFMAN: My question relates to that
7 sentence in the tariff that suggest the penalty
8 could be reduced to zero.

9 MR. COFFMAN: Q. Is it your opinion that if the
10 current premise -- on-site premise notification
11 requirement continues that this tariff provision you
12 propose would completely exempt Commonwealth Edison
13 from being subjected to any penalty?

14 MR. JOHNSON: Again, I object. It calls for a
15 legal conclusion and speculative.

16 MR. COFFMAN: Your Honor, this proposed tariff is
17 attachment to Mr. Hemphill's testimony. I think
18 it's important that I understand what Commonwealth
19 Edison's intent is with that language.

20 JUDGE DOLAN: Well, if he can answer the
21 question, I'll overrule it.

22 THE WITNESS: I can't speculate what the

1 Commission will do in the future.

2 MR. COFFMAN: Q. What is the intent of that
3 particular paragraph in the tariff?

4 A. Just in my own words, I think it's been
5 established already this morning that there are
6 conditions where or situations where the company may
7 apply for a waiver in terms of the penalty and this
8 provides or recognizes the authority of the
9 Commission to either approve or not approve that
10 waiver.

11 Q. Does it give the Commission the authority to
12 approve something in-between no waiver and a
13 complete waiver?

14 A. I believe, to the extent that that is
15 specified in the statute, that's what the Commission
16 would follow would be the direction as provided in
17 the statute.

18 Q. Shouldn't the language say that rather than
19 the penalty would just be simply reduced to zero?

20 A. Well, the language does refer to the statute
21 when it says in accordance with the provisions of
22 the statute, that's as good as putting the statutory

1 language in there.

2 Q. Mr. Hemphill, you were with Commonwealth
3 Edison -- were you with the company as early as 2008
4 during the period in which this baseline data was
5 accumulated?

6 A. No.

7 Q. When did you start with the company? I
8 forget.

9 A. January of 2009.

10 Q. And I know you said that you don't have
11 knowledge about what your employees currently do
12 with the premise visit, but are you aware of any
13 changes that were made in as far as what
14 Commonwealth Edison's policy is about premise visits
15 since you have been with the company? Any changes
16 in policy or practice for premise visits?

17 A. No.

18 Q. Your definition -- you are aware of some of
19 the changes that occurred in the roll-out of the AMI
20 pilot though which relate to premise visits, are you
21 not? You are not aware of that level of detail?

22 A. I would need you to be specific as to what

1 you are referring to.

2 Q. Are you aware that Com Ed developed any
3 different policy or practice with regard to premise
4 visits in conjunction with the AMI pilot?

5 A. No.

6 Q. When you talk about full functionality,
7 which was the language from the statute, and I'm not
8 asking you a legal opinion, but, in your opinion,
9 does full functionality mean that every future or
10 particular new technology is used all the time or
11 does it presume a simple capability and functioning
12 within certain parameters?

13 I'm not asking for a legal definition
14 under the statute, but rather what your
15 understanding of the full functionality is when you
16 put this language in the plan and the tariff.

17 A. Yes, if it's okay, I'll refer to a data
18 request that was part of Ms. Lusson's
19 cross-examination, and it's AG 1.08 when the
20 question was asked as to what full functionality is,
21 and I'll just read part of the answer to get it in
22 the record.

1 Com Ed generally understands the
2 phrases, quote, "fully implement and full
3 functionality." In the common ordinary sense with
4 respect to fully implement, the Merriam-Webster
5 Dictionary defines fully as "full manner or degree,
6 completely" and defines implement as "carry out,
7 accomplish."

8 Concerning full functionality,
9 Merriam-Webster Dictionary defines full as, "among
10 other things, being at the highest or greatest
11 degree, maximum," and defines functionality as "The
12 quality or state of being functional, especially the
13 set of functions or capabilities associated with
14 computer software or hardware or an electronic
15 device."

16 Q. Assuming that remote disconnection becomes
17 possible, there will still be instances where a
18 premise visit would be necessary or advantageous,
19 and I think this is required to access the hardware
20 at the visit, would that not be true?

21 MR. JOHNSON: I object to the extent it calls for
22 him to speculate and it may be more proper for

1 Michael McMahan's testimony, but if Dr. Hemphill
2 knows, he can answer.

3 THE WITNESS: Yes. You have access to a witness
4 that you could ask that I'm not technically the most
5 reliable person to answer that question.

6 MR. COFFMAN: Q. My question is rather a broad
7 policy-type question about how we are going to move
8 forward with this particular new metric paradigm,
9 that is, is it your understanding of the term full
10 functionality that every particular feature of the
11 new technology has to be used in every instance to
12 be considered full functionality?

13 A. I believe that the words in there were to
14 the maximum extent, maximum extent.

15 Q. So if Commonwealth Edison does not remotely
16 disconnect every single customer, which it's
17 technically capable, then that would be least
18 functionality in your opinion?

19 A. Again, I think that's not a policy question.
20 That's a technical question in terms of whether or
21 not that would be achieving the maximum potential
22 for the technology.

1 MR. JOHNSON: I also object that to the extent
2 the question relates to a waiver, which I think
3 which is what this gets at full functionality, that
4 that is to be litigated down the road if we ever do
5 choose to come and request a waiver.

6 MR. COFFMAN: I would agree with Commonwealth
7 Edison that they had not interjected waiver language
8 into this -- their proposal in this case.

9 It's obvious there is that right to
10 request a waiver in the statute, but new issues are
11 raised by adding waiver language in the tariff and
12 in the plan.

13 MR. JOHNSON: Well, it's statutory, and I believe
14 Ms. Lusson in her cross of Dr. Hemphill when she was
15 pointing Dr. Hemphill to the language about the full
16 functionality in the form of communication, she
17 noted that was just paraphrasing the statute in
18 reference to the statute.

19 JUDGE DOLAN: Go ahead.

20 MR. COFFMAN: I think I may be done.

21 JUDGE DOLAN: Do you have some questions?

22 MR. JOLLY: Yes. I think I will be quick.

1 Go ahead.

2 CROSS EXAMINATION

3 BY

4 MR. JOLLY:

5 Q. Dr. Hemphill, I'm Ron Jolly. I am
6 representing the City of Chicago. Good morning.

7 A. Good morning.

8 Q. I would like to ask you a couple of
9 questions about the tariff, in particular I guess
10 Commonwealth Edison 1.1TB original sheet number
11 XX plus 11.

12 And, first of all, this was -- was this
13 attached to your testimony or was this attached to
14 the plan (sic)?

15 A. This was attached to my testimony.

16 Q. Okay. So you were involved in preparing the
17 tariff?

18 A. Yes.

19 Q. And you reviewed it?

20 A. Yes.

21 Q. And you understand what the tariff provides?

22 A. Yes.

1 Q. Okay. Focusing again on the language with
2 respect to the first paragraph on that page and the
3 last clause, it states, "The company found to be
4 exempt from the requirement to meet such target
5 level achievement according to the provision of
6 Section 16.108.5 of the Act after such penalty is
7 equal to 0.0." Do you see that?

8 A. Yes.

9 Q. In drafting that or reviewing that, did you
10 refer to the two sections 16.108.5 also of the Act?

11 A. Yes, that is what the language itself refers
12 to.

13 Q. And did you read that section?

14 A. Yes.

15 Q. What particular part of Section 16.108.5 are
16 you referring to when you say "In accordance with?"
17 And I have a copy of a portion of that section, and
18 this is --

19 MR. JOHNSON: You want to point him to the
20 particular --

21 MR. JOLLY: Q. What I have in front of me is
22 16.108.5(f)9. I assume that's the provision that

1 Dr. Hemphill was referring to when drafting that
2 tariff.

3 MR. JOHNSON: I think that's the MWBT metric. So
4 is it after that, in the paragraph after that?

5 MR. JOLLY: Q. I have a portion that's been
6 printed out. Okay. Actually --

7 A. I am actually finding it.

8 Q. You are finding it?

9 A. Yes. Okay. You want me to read the portion
10 of the statute --

11 Q. Yes.

12 A. -- if that is appropriate?

13 Q. Yes.

14 A. This is the statutory language.

15 JUDGE DOLAN: What section are you at? What
16 number are you reading? What sub number?

17 THE WITNESS: I'm very poor --

18 MR. JOHNSON: If you don't mind, I'll try to
19 clarify. It's after the ninth metric, it's the
20 third full paragraph after the ninth metric.

21 THE WITNESS: "The metrics and performance goals
22 set forth in Subparagraphs 5 through 8 of Subsection

1 (f) are based on the assumptions that the
2 participating utility may fully implement the
3 technology described in Subsection B of this
4 section, including utilizing the full functionality
5 of such technology, and that there is no requirement
6 for personal on-site notification.

7 If the utility is unable to meet the
8 metric and performance goals set forth in
9 Subparagraph 5 through 8 of Subsection (f) for such
10 reason and the Commission so finds after notice and
11 hearing then the utility shall be excused from
12 compliance but only to a limited extent and
13 achievement of affecting metric and performance
14 goals was hindered by the less than full
15 implementation."

16 MR. JOLLY: Q. Now that provision you just read
17 it does not state that if the company is found to be
18 exempt from requirements to meet such tariff levels
19 of achievement, then the penalty shall be zero, does
20 it?

21 A. The word zero.

22 MR. JOHNSON: I object to the extent this starts

1 to get into his interpretation of the statute.

2 MR. JOLLY: I'm not asking him to legally
3 interpret. I'm asking him to read the words.

4 MR. JOLLY: Q. Does it say that the penalty
5 shall be zero if the company shall be found exempt?

6 A. The word zero is not in there.

7 MR. JOLLY: Thank you. That's all I have.

8 JUDGE DOLAN: Thank you.

9 Do we have any redirect or do you need
10 time?

11 MR. JOHNSON: I don't think we have any redirect.

12 JUDGE DOLAN: Okay. I'm thinking that we have
13 Mr. McMahan for an hour and 15 minutes. Do we want
14 to take a lunch break now?

15 MR. JOHNSON: I think at this point we are also
16 going to waive our cross-examination of
17 Ms. Alexander if that speeds things up. We can
18 tender Mr. McMahan and finish things up.

19 JUDGE DOLAN: Okay. With that then, I would
20 still like to take a five-minute break then.

21 MR. JOHNSON: Okay.

22

1 (Whereupon, a five-minute
2 break was taken.)
3 JUDGE DOLAN: Go back on the record.
4 MR. JOHNSON: Com Ed tenders Michael McMahan for
5 cross-examination.
6 JUDGE DOLAN: All right. Mr. McMahan, please
7 raise your right hand.
8 (Witness sworn.)
9 Okay. Ms. Lusson, ready to proceed.
10 MS. LUSSON: Yes. I didn't realize -- okay. I'm
11 sorry. I missed the part where they're moving for
12 admission into the record.
13 JUDGE DOLAN: Well, he did it all at the
14 beginning.
15 MS. LUSSON: Okay. Then you already introduced
16 Mr. McMahan.
17 MICHAEL McMAHAN,
18 called as a witness herein, having been first duly
19 sworn, was examined and testified as follows:
20
21
22

1 DIRECT EXAMINATION

2 BY

3 MS. LUSSON:

4 Q. Good afternoon, Mr. McMahan.

5 A. Good afternoon.

6 Q. First I want to direct your attention to
7 Page 2 of your testimony. Now as vice president of
8 Smart Grid and technology, you are the individual at
9 Com Ed who's responsible for developing and
10 implementing the operations plan for the
11 installation of Com Ed's Smart Grid projects and
12 other related technologies; is that correct?

13 A. That's correct.

14 Q. And, as the person responsible for
15 developing and implementing operations plans, you
16 would be the person who is overseeing policies with
17 respect to things like what kind of waivers the
18 company will or will not seek when it files its
19 AMI plan in a couple of months; is that true?

20 A. Well, if waivers were to be filed, then I
21 would most likely have a say in those if they were
22 to be filed.

1 MR. JOHNSON: When we are talking about waivers,
2 the kinds that we're talking about in terms of the
3 metric statute --

4 MS. LUSSON: Yes.

5 MR. JOHNSON: -- or other sorts of waivers?

6 MS. LUSSON: Those and any other kind of waivers,
7 yes.

8 MS. LUSSON: Q. If you could turn to Page 12 of
9 your testimony, Line 240, you state there that the
10 annual performance goals associated with these four
11 metrics -- by four metrics, you're referencing those
12 customer service metrics, is that correct --

13 A. That's correct.

14 Q. -- and that that achievement or the goals
15 themselves are dependent upon the Commission's
16 approval of Com Ed's AMI plan pursuant to 16-108.6
17 of the Act and on the Commission declining to
18 otherwise impose an on-site disconnection
19 requirement? Is that right?

20 A. That's what's written, yes.

21 Q. And when you state "declining to otherwise
22 impose an on-site disconnection requirement," you

1 are^ you're ^ your seeking that the company be
2 permitted to utilize remote disconnections; is that
3 right?

4 A. Well, remote disconnection is a feature of
5 AMI technology.

6 Q. And, to the extent that these performance
7 metrics assume that, that is to not decline to
8 impose an on-site disconnection requirement and, as
9 the person who's overseeing the operations of the
10 AMI plans and operations, do you know what at this
11 point whether the company will be seeking a waiver
12 from any existing on-site notification requirement
13 in its AMI filing?

14 A. We have no -- that filing is not in place
15 yet. I don't know.

16 Q. You don't know. To the extent that these
17 performance metrics though assume no on-site
18 notification, does the company believe it would need
19 to seek a waiver from the existing Part 280 rules
20 regarding what happens at the time of disconnection?

21 MR. JOHNSON: Again, I'll object along the lines
22 before that we are talking I believe about a period

1 of performance that's out like in 2013 and 2014, and
2 so we don't yet know what, if any, rule the
3 Commission will have on on-site notification during
4 that time and even if there is a rule whether the
5 company would seek a waiver from that.

6 MS. LUSSON: To the extent that it will be filing
7 this plan in April and we know for a fact that the
8 Docket 06-0703 rulemaking will not have been
9 pleaded, it's just not possible in that amount of
10 time, and that a new rule would be in place, I'm
11 asking should we assume then that the company is
12 going to seek a waiver given that this plan and this
13 performance metric assumes on-site -- no on-site
14 disconnection requirement.

15 MR. JOHNSON: And so we are talking about filing
16 a waiver in the AMI docket; is that right?

17 MS. LUSSON: Correct.

18 MR. JOHNSON: Okay. And I just think it's a
19 legal interpretation issue that -- and it's
20 16-108.5(f.) We are talking about a waiver, at
21 least the way we talked about this morning, a waiver
22 happens only after performance periods, and the

1 first performance period does not begin until
2 mid-to-late summer of 2013.

3 MS. LUSSON: So the waiver -- I'm referring to
4 any question is the waiver of the Part 280
5 requirement -- the existing Part 280 requirement.

6 MR. JOHNSON: So like being pre-excused from a
7 performance, like a pre-waiver before a plan begins.

8 MS. LUSSON: What I'm asking is would the AMI
9 plan that would be put in place, given the current
10 state of the law, because we don't know what's going
11 to happen in 06-0703, or whether or not there will
12 be changes if the company is going to ask in its AMI
13 filing whether that requirement will exist still in
14 April needs to be lifted for the company to conduct
15 its AMI roll-out and performance achievement --
16 performance and metric achievement.

17 MR. JOHNSON: Okay. And I just object to the
18 relevance of that docket and the AMI docket, and I
19 think I have explained the concept of the waiver in
20 this docket. The metric filing waiver happens after
21 a performance review period.

22 JUDGE DOLAN: Again, you are asking with respect

1 to later on in a docket that hasn't been filed. I
2 think what Com Ed is going to do in the future end
3 of it, it's not relevant to this proceeding.

4 MS. LUSSON: Q. Now let me turn your attention
5 to Page 14 of your direct testimony where you
6 discuss consumption on inactive meters.

7 As I understand your definition of
8 consumption on inactive meters is that this occurs
9 when metered electricity has no customer of record
10 to bill for usage; is that correct?

11 A. That's correct.

12 Q. And that consumption on inactive meters
13 generally occurs when the customer of record final
14 the account and there's no immediate successor
15 customer that contacts Com Ed to set up a new
16 service; is that correct?

17 A. Those are the words.

18 Q. Given that definition of a customer on an
19 inactive meter, would you expect that on-site
20 notification requirement would not affect the
21 achievement of the metric associated with
22 consumption on inactive meters?

1 A. Could you repeat that, please.

2 Q. Given that definition of consumption on
3 inactive meters, would you expect that an on-site
4 notification requirement would not affect the
5 company's ability to achieve the metric associated
6 with consumption on inactive meters?

7 MR. JOHNSON: And just to clarify the question,
8 by "on-site notification," what exactly do you mean
9 by that?

10 MS. LUSSON: Contacting the customer at the time
11 of disconnection.

12 THE WITNESS: It's hard to say. I mean, the
13 numbers -- the numbers are the numbers. Whether
14 they are or are not affected really doesn't -- isn't
15 really material here.

16 We have goals lined out. We have goals
17 lined out, and if we fail to achieve those goals,
18 and at that time we think some factual evidence will
19 indicate that that had an impact on that metric, and
20 at that time we would make our case if we thought it
21 was appropriate. And if we thought it was material,
22 we would make our case to the ICC, and they will

1 have a hearing, and intervenors would be able to
2 provide testimony, and ultimately the ICC would
3 render a decision.

4 MS. LUSSON: I'm going to move to strike that
5 response. My question is would you expect an
6 on-site notification requirement would affect the
7 achievement of the metric associated with
8 consumption on inactive meters. The witness then
9 proceeded to tell me why essentially he didn't think
10 it was relevant and what will happen in the future.

11 My question is simple. In his job as
12 vice president of Smart Grid, as an engineer, does
13 he expect that on-site notification requirement to
14 in any way affect their achievement of that metric
15 knowing what he knows about what consumption on
16 inactive meters is.

17 MR. JOHNSON: And I object that we -- this is
18 about on-site notification, a requirement of a rule
19 we don't know what it's going to look like yet in
20 this period 2013 and 2014, right?

21 MS. LUSSON: No. I'm talking about now. What
22 exist now.

1 JUDGE DOLAN: And you are dealing with this
2 consumption on inactive meters where they already
3 said in this final analysis there is no customer to
4 notify.

5 MS. LUSSON: Exactly. Exactly.

6 JUDGE DOLAN: So that's what you are trying to
7 find out, how they're going to be able to notify a
8 customer that doesn't exist?

9 MS. LUSSON: Well, that's my question.

10 MS. LUSSON: Q. Given that definition, would you
11 expect an on-site notification requirement of a
12 customer at the time of disconnection to effect this
13 metric?

14 A. You know, I always hate to say never,
15 because there's so many permutations and scenarios
16 in a straightforward case, you know, where the
17 customer hasn't finalized their account, hadn't
18 moved out, there was no customer of record and,
19 obviously, on-premise notification would not impact
20 that, but I can think of potentially other scenarios
21 that it would, so I can't cover all possible
22 speculative routes here.

1 Q. But generally would you expect this metric
2 not to be significantly impacted in any way on any
3 sort of retention of an on-site notification
4 requirement for active customers?

5 A. In the strict definition of a consumption on
6 inactive meter, I would agree with you, but there
7 are other possible potentials.

8 Q. Let's move to unaccounted-for energy, Page
9 15. Is it correct that you would expect that an
10 on -- well, first, let's look at the definition. At
11 Line 306, you indicate that this is defined as "The
12 reduction of non-technical line loss unaccounted-for
13 energy not related to distribution of transmission
14 losses."

15 And at Line 312 you indicate
16 "Unaccounted-for energy as unmetered electricity
17 does not bill to an individual retail customer such
18 as in theft of service occurs." Is that a correct
19 admission?

20 A. That's what is written, yes.

21 Q. So, again, given on-site notification that
22 requires contact with a customer, do you -- if that

1 requirement was retained, would you expect that to
2 affect the company's ability to achieve this metric
3 given that this metric is not, as I understand it,
4 billed into an individual retail customer --

5 A. Well --

6 Q. -- unaccounted-for energy?

7 A. Once again, there's unanticipated outcomes
8 that I can't speculate on, so it's possible that it
9 could.

10 Q. I'm not asking you to speculate. I'm asking
11 you, based on your knowledge of what this definition
12 is, would you expect an on-site notification
13 requirement to affect the company's ability to
14 achieve this metric generally speaking not thinking
15 about some random bizarre exception.

16 A. And in the strict definition of the terms
17 here, I would agree that probably wouldn't affect
18 it, but there are other circumstances.

19 Q. Now turning to Lines 332 and 337 of your
20 testimony, in there you define the uncollectibles
21 expense metric and you define it as the amount of
22 expense associated with bad debt that Com Ed reports

1 in its FERC Form 1, Count 904; is that correct?

2 A. That's correct.

3 Q. And, again, that baseline value is the
4 average uncollectibles expense set forth in the FERC
5 Account 904 in Com Ed's 2008 through 2010 FERC Form
6 1 submittal; is that true?

7 A. Yes, that's correct.

8 Q. Now, again, just to highlight again what the
9 company is proposing under the metric and plan
10 that's been filed, the company anticipates trying to
11 achieve a goal where about \$3 million in
12 uncollectible expense is reduced or eliminated per
13 year over those 10 years; is that right?

14 A. That's correct.

15 Q. Now have you yourself undertaken any study
16 to evaluate how an on-site notification requirement,
17 given the fact that this tariff assumes -- that
18 achievement of that goal assumes no on-site
19 notification requirement, have you yourself
20 undertaken any studies to evaluate how that
21 requirement would affect the company's ability to
22 achieve this uncollectibles metric?

1 A. No.

2 Q. Have you yourself conducted any study to
3 determine what factors, other than an on-site
4 notification requirement, impact the company's
5 ability to achieve uncollectible reductions that are
6 being proposed in this docket, such as different
7 collection practices or attempting to negotiate
8 different kinds of deferred payment arrangements?

9 Have you evaluated any of those and how
10 they might impact the performance goals that are
11 being proposed in this docket?

12 MR. JOHNSON: Let me just object on relevance
13 grounds. I'm just trying to understand how this is
14 relevant. Are you getting at a waiver issue down
15 the road?

16 MS. LUSSON: I'm getting at what the company
17 assumes affects its ability to reduce uncollectible
18 expense, how it will track its ability to achieve
19 the metric being performed here, and whether given
20 the assumption that an on-site notification no
21 longer exists whether it plans to in any way track
22 through some sort of data collection how an on-site

1 notification requirement affect its ability to
2 achieve the metric. Because certainly, depending on
3 whether or not they achieve the metric, that kind of
4 information is going to have to be presented to the
5 Commission.

6 So I'm trying to explore, since this is
7 the docket that establishes those performance
8 metrics, what it is that the company plans to track
9 so that the Commission in future filings will be
10 able to know that it has the information to evaluate
11 the achievement of those metrics.

12 MR. JOHNSON: That's understood. I think I will
13 just reiterate that the issue that Com Ed has is we
14 don't know quite what rule would exist in the
15 future, if any, and, as far as tracking goes, to the
16 extent it causes him to speculate, because he
17 doesn't know about the rule, that he would have to
18 collect data for that may cause him to have to
19 speculate to answer. So I guess that's my
20 objection.

21 MS. LUSSON: But I'm not asking him to speculate.
22 I'm asking him about the -- you know, what we

1 believe is an existing requirement and whether --
2 what kind of data the company intends to collect,
3 such as the factors that I outlined in my question,
4 to determine what, if any, impact on-site
5 notification has on the achievement of this
6 performance metric.

7 JUDGE DOLAN: I guess, to the extent that the
8 witness can answer, I'll overrule the objection.

9 THE WITNESS: Could I hear the question again? I
10 got lost there.

11 MS. LUSSON: Can you repeat the question.

12 (Question read
13 by reporter.)

14 THE WITNESS: No.

15 MS. LUSSON: Q. And as the vice president of
16 Smart Grid and an individual sort of responsible for
17 the operations associated with this Smart Grid
18 roll-out, have you in place today any specific plans
19 for the data that the company will compile so that,
20 if necessary, it can evaluate whether less than full
21 functionality, that is an outside notification
22 requirement, impacts the company's ability to

1 achieve metric?

2 MR. JOHNSON: I just object along the lines of
3 other AMI docket questions to the extent it causes
4 them to speculate about what might be proposed in
5 that AMI docket that's going to be filed in April.
6 I object to that.

7 MS. LUSSON: The question asked if there exists
8 plans today to evaluate various data.

9 JUDGE DOLAN: I will overrule the objection.

10 THE WITNESS: No.

11 MS. LUSSON: Q. Mr. McMahan, you were present
12 during the cross-examination of Mr. Hemphill,
13 weren't you?

14 A. I was.

15 Q. Do you recall the question and answer in
16 which Mr. Hemphill indicated that -- I'm
17 paraphrasing here obviously -- that if the technical
18 requirement for an on-site notification disappears
19 that the company sees no regulatory requirement for
20 on-site notification? Is that the assumption that
21 the operational roll-out of AMI and achievement of
22 this performance metric assumes?

1 A. Could you state that -- I got a little bit
2 confused there. Could you state that again, please,
3 what am I assuming or not assuming?

4 Q. Well that, as I understood Mr. Hemphill's
5 testimony, once the technical requirement associated
6 with the actual technology for an on-site
7 notification disappears, which happens with AMI,
8 that it is the company's view that there is no
9 longer any need for on-site notification.

10 Is that, as director or vice president
11 of Smart Grid and the person in charge of the
12 operations of the AMI roll-out, is that the
13 assumption that you are also taking forth as you
14 attempt to achieve these performance metrics and
15 roll-out the technology itself.

16 MR. JOHNSON: I have to object. I'm not sure if
17 that characterizes Dr. Hemphill's answer correctly,
18 and, again, relevance of this, and to the extent --
19 I don't know. You are talking about technology
20 requirement but not about what the law does or
21 doesn't exist at the time or how does that plan --

22 MS. LUSSON: Q. Well, as I understood

1 Dr. Hemphill's testimony, once the technological
2 need for an on-site notification goes away, that is
3 the company's view that there is no other factor
4 requiring it to make on-site notification. I guess
5 I could ask you that question. Is that your view?

6 A. Okay. So ask the question again. I'm
7 sorry. Read the question. I'm just getting mixed
8 up, because you keep referring to Dr. Hemphill.

9 Q. I understand. I apologize.

10 Is it your opinion, whether or not
11 Mr. Hemphill said this, that once the technical need
12 for an on-site notification or on-site visit is
13 removed, via the AMI technology, that there no
14 longer is a requirement today for the company to
15 make an on-site notification at the time of
16 disconnection?

17 A. I have no opinion on that. I make no
18 assumptions one way or the other on that.

19 Q. So as --

20 A. Whatever is in place, whatever the law is in
21 effect at the time, that's what we intend to follow.

22 Q. Do you know what happens now in the area

1 where AMI meters are installed, for example? Does
2 the company still make on-site notifications for
3 those customers who are disconnected for nonpayment?

4 A. I have no knowledge of that one way or the
5 other.

6 Q. Do you know what the company does when it
7 sends those meters that are analogued where
8 disconnection occurs for nonpayment? Do you know
9 what the practice is of the company in terms of any
10 kind of notification of the customer at that time?

11 A. In general, Com Ed follows the laws that are
12 in effect and regulations in effect, but I don't
13 know the specifics. The meter department is not my
14 department.

15 Q. In sitting here today, do you know how that
16 on-site notification financially impacts the
17 company's ability to achieve the uncollectibles
18 performance metric that is being proposed in this
19 docket?

20 MR. JOHNSON: I'll just object. Again, the
21 question's speculative. It's not relevant to the
22 idea of how it impacts. We can't even start looking

1 at impacts until we hit the first plan which doesn't
2 start until mid 2013.

3 MS. LUSSON: It's a simple question and it is
4 important, if this plan is being presented, that is
5 relevant, that it, being discussed in this filing,
6 assumes no on-site visit.

7 So my question again was does
8 Mr. McMahan know what the financial impact to
9 achievement on that metric is, if, in fact, an
10 on-site notification is required.

11 JUDGE DOLAN: Overruled.

12 THE WITNESS: We didn't do an analysis to say
13 what's the financial impact with it or without it.
14 Our goal in filing the metric testimony was as
15 faithfully as we could reproduce the statute. The
16 statute laid out how to calculate the baseline. We
17 did that, and it laid out what the radical
18 improvements were over 10 years. We did that.

19 There were no linkage to on-site
20 notification or not on-site notification. It was
21 just simply math, the way the statute's laid out.

22 MS. LUSSON: Thank you, Mr. McMahan. Thank you.

1 No further questions.

2 THE WITNESS: Thank you.

3 JUDGE DOLAN: Mr. Coffman.

4 MR. COFFMAN: I think I can waive any
5 cross-examination.

6 JUDGE DOLAN: Okay. Any redirect?

7 MR. JOHNSON: No redirect, your Honor.

8 JUDGE DOLAN: Okay. Thank you, Mr. McMahan.

9 So do we have -- you are saying you are
10 waiving Ms. Alexander?

11 MR. JOHNSON: Correct.

12 MS. LUSSON: No objection.

13 MR. JOLLY: No, I don't have any questions.

14 JUDGE DOLAN: No? Okay.

15 MR. JOLLY: Thank you.

16 JUDGE DOLAN: Then we just have to put exhibits
17 in.

18 MR. COFFMAN: Would you like to swear in
19 Ms. Alexander and she can fly away from me.

20 JUDGE DOLAN: If you can identify her for the
21 record.

22 MR. COFFMAN: I would like to offer Barbara

1 Alexander to the stand and offer the Exhibit AARP/AG
2 Exhibit 1.0, which is her prepared direct testimony.

3 (Whereupon, AARP/AG
4 Exhibit No. 1.0 was
5 previously marked for
6 identification.)

7 JUDGE DOLAN: Ms. Alexander, do you want to raise
8 your right hand.

9 (Witness sworn.)

10 Thank you. Mr. Coffman, you want to
11 introduce that document into the record.

12 MR. COFFMAN: Yes, I would. I offer the direct
13 testimony of Barbara Alexander, AG/AARP Exhibit 1.0.

14 JUDGE DOLAN: Is there any objection?

15 MR. JOHNSON: No objection.

16 JUDGE DOLAN: Okay. Then AARP/AG Exhibit 1.0
17 will be admitted into the record.

18 (Whereupon, AARP/AG
19 Exhibit 1.0 was received
20 in evidence.)

21 I'm sorry. You had no questions. None
22 came up.

1 Then staff you want to put your
2 exhibits into the record.

3 (Whereupon, ICC Staff
4 Exhibit Nos. 1.0, 1.1,
5 2.0 and 2.1 were
6 previously marked for
7 identification.)

8 MR. SAGONE: Thank you, Judge. Staff moves for
9 admittance into the record of staff witness
10 pre-filed testimony filed on Commission's e-docket
11 system beginning with ICC Staff Exhibit 1.0, which
12 is the Pre-filed Direct Testimony of Staff Witness
13 John B. Stutsman, that's S-t-u-t-s-m-a-n, which
14 consist of a cover page, a table of contents, five
15 pages of narrative testimony, and Attachments A
16 through I, which was filed on e-docket on January
17 30, 2012.

18 Next ICC Staff Exhibit 1.1, an
19 Affidavit of John B. Stutsman in support of his
20 pre-filed testimony, which was filed on e-docket on
21 February 16, 2012.

22 Next ICC Staff Exhibit 2.0, which is

1 the Pre-filed Direct Testimony of Theresa Ebrey,
2 that's E-b-r-e-y, which consists of a cover page,
3 table of contents, three pages of narrative
4 testimony, and Attachments A and B, which was filed
5 on e-docket on January 30, 2012.

6 And, finally, ICC Staff Exhibit 2.1,
7 an Affidavit of Teresa Ebrey in support of pre-filed
8 testimony filed on e-docket on February 16, 2012.

9 JUDGE DOLAN: All right. Is there any objection?

10 MR. JOHNSON: None.

11 JUDGE DOLAN: All right. Then Staff Exhibits
12 1.0, 1.1, 2.0, and 2.1 will be admitted into the
13 record.

14 (Whereupon, ICC Staff
15 Exhibit Nos. 1.0, 1.1,
16 2.0 & 2.1 were received
17 in evidence.)

18 (Whereupon, CUB Exhibit
19 Nos. 1.0, 1.1 & 1.2
20 were previously marked
21 for identification.)

22 MS. HICKS: At this time we move for the

1 admission of CUB Exhibit 1.0 that was filed on
2 e-docket on January 30, 2012, along with CUB Exhibit
3 1.1, filed on e-docket January 30, 2012 as well, and
4 CUB Exhibit 1.2, which is the Affidavit of
5 Christopher Thomas -- I'm sorry. CUB Exhibit 1.0
6 was the Direct Testimony of Christopher Thomas and
7 CUB Exhibit 1.1 is his docket summary. CUB Exhibit
8 1.2 is the Affidavit of Christopher Thomas, and that
9 was filed on e-docket on February 16, 2012, and I
10 move for admission of CUB exhibits.

11 JUDGE DOLAN: Any objection?

12 MR. JOHNSON: None.

13 JUDGE DOLAN: Then CUB Exhibit 1.0, 1.1, and
14 1.2 will be admitted into the record.

15 (Whereupon, CUB Exhibit
16 Nos. 1.0, 1.1 and 1.2
17 were received in
18 evidence.)

19 Is that all of the exhibits that are
20 the pre-filed testimony?

21 (No response.)

22 Is there any other matters that we need

1 to keep the record open or do we not mark it heard
2 and taken today in case anybody has a late exhibit
3 or anything?

4 MS. LUSSON: I would request that it not be
5 marked heard and taken today because we may be
6 filing a motion for the Commission to take
7 administrative notice of certain material.

8 JUDGE DOLAN: Okay. With that, we will mark it
9 heard and taken at a later date.

10 So is there any other matters then for
11 this docket to come before the Commission today?

12 MR. JOHNSON: I don't think so. We reached
13 agreement on a common outline, so we'll be filing
14 that this afternoon, and that's it.

15 JUDGE DOLAN: Okay. Then we'll just be entered
16 and continued generally.

17 MR. JOHNSON: Thank you.

18 MS. LUSSON: Thank you.

19 (Whereupon, the above
20 matter was continued
21 generally.)

22